

REMARKS

This responds to the Office Action mailed on September 12, 2007.

Claims 1, 8, and 15 are amended; as a result, claims 1-20 are now pending in this application.

Example support for the amendments can be found in a variety of locations throughout the original filed specification. By way of example only, the Examiner's attention is directed to the original filed specification paragraphs 25, 34-35, 42, 49-50, 52, and 62.

§102 Rejection of the Claims

Claims 1-5 and 8-20 were rejected under 35 U.S.C. § 102(a) for anticipation by McGarrahan et al. (U.S. 20030026424A1). It is of course fundamental that in order to sustain an anticipation rejection each and every claim limitation must be taught or suggested in the exact detail and identical arrangement in the cited reference.

With respect to the rejection of each of the original independent claims, McGarrahan discusses an approach where the software for their set-top-box (STB) is prepackaged with the STB. Although, McGarrahan discusses also pre-loading the STB with encrypted content, McGarrahan does not in any way disclose streaming the content with the software needed to play the content to the recipient or STB. McGarrahan does discuss using its technique to distribute software in a single passing paragraph reference at the end of paragraph 32. But here, it is software products that are referenced that are different from the software 210 used to play the media content and that paragraph represents an alternative to media distribution not a complement or requirement that the media content and the software needed to play the media content use the approaches discussed in McGarrahan.

The Examiner's attention is directed to the paragraphs in the McGarrahan reference 26 (STB includes software 210), 48 (same software monitors viewing habits and profiles consumer), 49 (same software includes GUI for user media selection), 59 (same software has custom drivers for peripheral support), 64 (same software includes the operating system services), and 66 (same software includes support to automatically connect to the network periodically and upload billing details. It seems highly unlikely that any such software could ever be streamed with the content. It is clear that this software, which also is presumably also the media player (see paragraphs 38

and 77), could never feasibly be streamed with the media content on demand. In fact, McGarrahan only discusses streaming the content and never discusses streaming their software that includes support for playing the content (see paragraphs 33 and 54).

Thus, Applicant respectfully disagrees with the Examiner's assertion that the media player and the media content are streamed in a same stream to the recipient. This is just not feasible or practical in McGarrahan and is not what is taught or suggested. For this reason, Applicant respectfully believes that the rejections are without merit even before Applicant has made the above noted amendments.

Notwithstanding that argument, Applicant has amended the independent claims in an effort to expedite this application.

More specifically, and with reference to amended independent claim 1 first, Applicant has included a limitation where the media content and the media player are retained in volatile memory and have to be re-acquired on each attempt by a recipient to play the media content. Such a teaching is completely devoid in the McGarrahan reference and cannot be achieved in view of the software 210 defined in the McGarrahan reference.

Clearly no such limitation is present in any manner in the McGarrahan reference. According, with respect to independent claim 1, Applicant respectfully asserts that the rejections should be withdrawn.

With respect to amended independent claim 8, there is no discussion whatsoever in McGarrahan where a security identification for an IP address of a recipient computing device is checked and encoded in a media stream structure. Moreover, there is no discussion whatsoever that the software (media player) is checked for a valid license before media content is played. As such, the rejections with respect to independent claim 8 should be withdrawn. Applicant respectfully requests an indication of the same.

Finally, with respect to amended independent claim 15, Applicant has now included a litany of limitations now required with respect to authentication information. These limitations are nowhere taught in the McGarrahan reference. Consequently, Applicant respectfully requests that the rejections with respect to amended independent claim 15 be withdrawn and this claim and its dependents allowed. Applicant respectfully requests an indication of the same.

Applicant believes that a detailed showing of differences between what Applicant has done and what is shown in the McGarrah has not been supplied to the Examiner. Therefore, Applicant believes all claims are in condition for allowance in this application.

§103 Rejection of the Claims

Claims 6-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McGarrah et al. in view of Yamasaki et al. (U.S.20020161997A1). Claims 6-7 are dependent from amended independent claim 1; therefore, for the amendments and remarks presented above with respect to claims 6-7, the rejection of claims 6-7 should be withdrawn and these claims allowed. Applicant respectfully requests an indication of the same.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record is relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (513) 942-0224 to facilitate prosecution of this application.

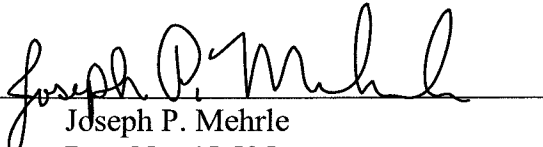
If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(513) 942-0224

Date 12-12-07

By


Joseph P. Mehrle
Reg. No. 45,535

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 12th day of December 2007.

KIMBERLY BROWN

Name

Signature

